

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

| | | |
|----------------------------|---|-------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | No. 05-60008-2-HO |
| |) | |
| v. |) | August 30, 2010 |
| |) | |
| PIROUZ SEDAGHATY, et. al., |) | Eugene, Oregon |
| |) | |
| Defendants. |) | |

TRANSCRIPT OF PROCEEDINGS

EXCERPT

OPENING STATEMENT FOR THE DEFENSE
BEFORE THE HONORABLE MICHAEL R. HOGAN
UNITED STATES DISTRICT COURT JUDGE

-:-

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Agent Carroll

1 EUGENE, OREGON; MONDAY, AUGUST 30, 2010

2 ***EXCERPT***

3
4 THE COURT: Go ahead, Mr. Matasar.

5 MR. MATASAR: Thank you, your Honor. May it please the
6 Court, Mr. Seda, family, and counsel, and ladies and gentlemen of
7 the jury.

8 We agree with much of the evidence that Mr. Cardani
9 showed you is going to be what's going to come out in the trial,
10 but there's a lot more that you'll need to know and a different
11 way of looking at it. And that's what I'm going to try to give
12 to you here today.

13 Let me begin by saying that the evidence will not show
14 that Pete Seda is some sort of evil fundamentalist conspiring
15 against the government to cheat on his taxes and to fund the
16 mujahideen in Chechnya. The evidence will show in fact quite the
17 opposite.

18 He's the opposite of a secret conspirator. He's open
19 in the community. He did not keep a low profile. He spoke out
20 for peace and for interfaith harmony throughout the southern
21 Oregon area consistently.

22 He went on TV. He spoke in newspapers. He was known
23 both for his work with trees -- he's an arborist. I'll talk to
24 you about that in a minute. And also for his work out in the
25 community for interfaith harmony: Muslims, Christians, and Jews

1 in southern Oregon.

2 There was a close community. You're going to hear from
3 some of those people. You'll hear from a rabbi. You'll hear
4 from a minister who will tell you the kind of man that Pete Seda
5 was.

6 Yes, he's interested in the affairs of the world. Yes,
7 he's interested in what's going on in Chechnya. He's deeply
8 concerned about what was going on, what the Russians were doing
9 to the Chechnyans, as he's been concerned about refugees in other
10 parts of the world, whether they be Afghanistan, Palestine,
11 whatever. He's a concerned, good man.

12 As far as Chechnya is concerned, and I'll show you some
13 pictures about this later, nearly the entire world was on the
14 side of the Chechnyans. Just like before when the Russians were
15 fighting in Afghanistan, nearly the entire world was on the side
16 of the Afghanistans fighting the Russians.

17 And one thing that's a theme to our case is that things
18 were different in 1999 and 2000 than they are today. Both the
19 events of 9/11 and others have changed the perception and changed
20 what's going on in the world and that's a really important thing.
21 And yet -- and yet even now, post-9/11, in 2008, the
22 International -- as you'll hear as evidence, the International
23 Red Cross gives money to the Taliban and that is not illegal.

24 Certainly if you can give money to the Taliban in 2008,
25 you can give money to the Chechen mujahideen in the year 2000 for

1 the medicines, for the orphans, just as the things you saw were
2 being spoken about in the e-mails that Mr. Cardani showed you.

3 And that's what Pete Seda's concern was, to provide
4 help for suffering refugees, and he went to extraordinary
5 peaceful efforts to do just that. And we believe, after you look
6 at all the evidence in the case, and that's what I'm going to
7 talk to you about, you'll see that the government's case was not
8 supported. Simply what they have is the kind of guilt by
9 association. You saw their chart. That's what they're aiming
10 for.

11 The errors that they claim on the tax return are either
12 not errors at all -- and I'll tell you about some of the things
13 that we believe are correct in the tax return. Much of it is
14 based on mistakes by the accountant and I'll show you some of
15 those. And there's the -- as Mr. Cardani said, Pete Seda, when
16 he hired the accountant, he told him: Get it right. You do it.
17 In fact, the accountant that Pete Seda got was a former IRS agent
18 and a specialist on nonprofit corporations. He tried to get the
19 best possible person to do the best possible job.

20 We're splitting up the case a bit on our side just as
21 they are. You heard Mr. Wax talk mostly in jury selection. He's
22 going to give the closing argument. He and I and Mr. Casey will
23 all question some witnesses.

24 One thing that I want to urge you about my opening
25 statement here is that it's just our view of the evidence. Not

1 only that, there may be things that I misspeak here today. One
2 thing I sometimes do is I get April and August confused. I may
3 say April when I mean August. There are other things that we all
4 do when we're speaking for an hour and it's fine. I think you'll
5 usually know what I mean. The main thing I want to be concerned
6 about is that you don't hold it against my client if I misspeak
7 or say something wrong. It's just me doing the best I can but
8 there will be a problem.

9 Now, I also have some visual aids here. And I'm going
10 to show you some detailed tax returns and those sorts of
11 documents just to show you some of the way that we're going to
12 present that during the trial, but also I just want to tell you a
13 little bit about my client.

14 He moved to Ashland, Oregon from his birthplace in Iran
15 in the mid-70s. He grew up in Iran in a middle-class home. His
16 father was a colonel in the Shah's army.

17 Now, the U.S.-supported Shah was deposed by a violent
18 -- or not a violent but by a fundamentalist revolution. Pete's
19 father got his children out. Pete Seda's brothers came to
20 southern Oregon before him and then he came, attended college.

21 He worked a number of jobs, including at the Forest
22 Service. He Americanized his name from Pirouz Sedaghaty to Pete
23 Seda. He eventually founded his own company because he was so
24 interested in -- I think it's arbor culture or trees. In the old
25 days, maybe they called it a tree surgeon. Now it's called being

1 an arborist. And his company was actually called the Arborist.

2 He became, as I said, known -- well known in the
3 community for his work. He was a founding member of the State of
4 Oregon Urban Forestry Board. He was on numerous local civic
5 groups. He was highly visible, as I said, often written about in
6 the media. And he became a United States citizen in 1994. He's
7 an American.

8 In the late 1980s, Mr. Seda, who had been born Muslim,
9 became interested -- although not very religious, had got more
10 and more interested in Islamic outreach. He opened his home as a
11 center for prayer in the southern Oregon community and set up
12 what he called the Qur'an Foundation, an organization that was
13 active both in southern Oregon and nationally. Mostly what the
14 foundation was for was to give away the Holy Book and other holy
15 books. And he funded that with his own money, the money that he
16 was making from the Arborist.

17 One of -- one of Mr. Seda's friends was another Ashland
18 man, David Rodgers. Not a Muslim when they met. David Rodgers
19 was a man interested in the environment, interested in horses,
20 and they both -- and Mr. Rodgers became involved in the Qur'an
21 Foundation as well.

22 And Mr. Rodgers got involved in Islam and ended up
23 moving to Saudi Arabia. So David Rodgers goes to Saudi Arabia,
24 meets another man interested in the environment and trees.
25 That's one of the things that brings these people together as

1 much as anything else, and that's Soliman Al-But'he, who you've
2 heard about from Mr. Cardani. Mr. Al-But'he is also an
3 environmentalist by occupation. In fact, he was in charge of
4 landscaping for the General Department of Parks and
5 Beautification of the Municipal -- Municipality of Riyadh, Saudi
6 Arabia. The head landscaper of a city of five million people.

7 Eventually he got promoted and had other higher duties,
8 including general manager of the entire Environmental Health
9 Department. Soliman Al-But'he, along with his other work as an
10 environmentalist and landscaper for the city, was involved in
11 al-Haramain, the charity, with its headquarters in Riyadh. It's
12 one of the largest charities in Saudi Arabia and it operates
13 under the auspices of a Saudi royal family. And we'll have
14 witnesses talk to you in detail about the organization and the
15 work of al-Haramain.

16 As I said, Mr. Al-But'he, who knew -- they met David
17 Rodgers in Saudi Arabia, and David Rodgers introduced the two of
18 them, Al-But'he and Pete Seda. So that's how all the three of
19 them, they all became friends. They shared environmental
20 concerns, particularly about urban forestry. And shortly
21 thereafter, al-Haramain Ashland was started.

22 Here you see Pete Seda, David Rodgers. Here we have
23 another forestry picture. You have David Rodgers. This is
24 Soliman Al-But'he, Pete Seda, and some family members and others.
25 Ben Searcy, this man here, he's going to be testifying for us

1 later. (Displaying photos.)

2 And remember I said that David Rodgers moved to Saudi
3 Arabia in the '90s. He's renowned, well known here before he
4 left as a horse trainer, sort of a horse whisperer, a real
5 talented, brilliant man dealing with horses.

6 And as you may know, the Saudi Arabians are very close
7 to horses. Arabian horses are an important part of the society
8 and the culture. And David Rodgers, this local southern Oregon
9 guy, not born a Muslim, ends up becoming the horse whisperer for
10 the king of Saudi Arabia. This is David Rodgers and the king of
11 Saudi Arabia because he helps him with the horses.

12 Of course as Pete Seda started al-Haramain, he was
13 aware of the huge amount of money that was available to assist
14 with his work of giving away the Qur'an. That's what al-Haramain
15 does as well. It's almost as if you're operating a
16 Save-the-Whales, small -- Newport or somewhere on the coast for
17 Oregon, and then somehow your organization comes to the attention
18 of maybe the worldwide Swedish Save-the-Whales Foundation funded
19 by some bazillionaire (sic).

20 And, of course, Mr. Seda is looking forward to the
21 opportunity to fund his good work and to fund his literature
22 distribution, and really probably few people could be possibly
23 richer than the Saudi royal family to help with that. So that is
24 clearly part of the operation, part of the hope.

25 So Mr. Seda registered al-Haramain Ashland with the

1 state of Oregon in October 1997. And al-Haramain Saudi Arabia
2 became the primary funding source. They continued much of the
3 work of the Qur'an Foundation distributing literature, gathering
4 and donating money, and both -- and for the humanitarian
5 purposes, both home and abroad. Al-Haramain Saudi donated most
6 of the literature, including the Noble Qur'an and the other
7 items.

8 In late '97, al-Haramain Saudi Arabia donated money,
9 about \$188,000, for a prayer house to be purchased in Ashland,
10 Oregon, allowing the community to move its services out of
11 Mr. Seda's house. And I should note here that I'm not sure how
12 much this is all going to come up, and I'm not a true expert as
13 you will hear real experts in the religious doctrines in Islam,
14 but while Mr. Seda was brought up in the Shia tradition of Islam,
15 the tradition practiced in Iran, his practice in Ashland was
16 actually more Sunni but open to all. It was pretty
17 nondenominational and very open.

18 Not only that, al-Haramain funded a prayer house in
19 Springfield, Missouri, for about \$380,000. So they were funding
20 organizations -- or funding the organization to a large amount.

21 While Pete Seda was pretty much the main force in
22 al-Haramain, it's important for you to know that there were a
23 number of other people working there, and this is one of the
24 things that we'll talk about with the accountant. Pete Seda was
25 not in charge of the accounting. He hired the best, straightest

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1 accountant he could find, a former IRS agent. And when he hired
2 his accountant, he told him -- told Mr. Wilcox: I don't do a
3 detailed review of the books myself. I expect you to do that.
4 And to train my bookkeepers. We'll pay you extra for that.

5 And Wilcox did that analysis. Worked on the
6 accounting. He said Pete Seda told him he believes in
7 delegation, he just wants the stuff right.

8 So Mr. Seda's continuing his work in local outreach.
9 Sorry. Speaking frequently -- this is actually -- I'm getting
10 ahead of myself but this is Pete Seda's truck, the Arborist. His
11 organization grew and grew. There were several employees. And
12 they ended up with this gigantic truck, with the name of the
13 business there, putting in some trees.

14 But he continued his local outreach both -- frequently
15 in schools. All of this work was addressing issues of tolerance
16 and religion, Muslims and Jews, Israelis and Palestines --
17 Palestinians. But wait, he even bought a camel. One of the
18 things that helped with the outreach in Ashland was they bought a
19 camel and the camel ended up being a fixture of the Fourth of
20 July parade. Ashland has a big Fourth of July parade and the
21 camel was there every year.

22 As I said, he became a partner for peace with other
23 religious figures in southern Oregon. Rabbi David Zaslow is one
24 of them and Minister Karen Caldwell who will be here.

25 Because the religion of Islam is important in this

1 case, I'm going to talk a minute or two about that. The term
2 "Islam" means submission to God and the term "Muslim" is a person
3 who has submitted to God. So we say that the religion of -- it's
4 the religion of Islam and the person who practices Islam is known
5 as a Muslim. And it is one of the three Abrahamic religions:
6 Judaism, Christianity, and Islam. All three are related in many
7 ways, common roots.

8 The central book is the Qur'an. Unlike some religions,
9 there's no central hierarchy in Islam. There's no pope. There's
10 no central single central figure.

11 There are two primary branches, the Sunnis and the
12 Shia. It's not really significant in this case but you should
13 know that the dispute essentially boils down to who's the
14 rightful successor to the prophet Mohammed. About 87 percent of
15 the population of Muslims in the world are Sunnis.

16 It's important to know though that there's a high
17 amount of diversity within the religion just like there's a large
18 amount of diversity in Christianity. We tend not to think of
19 that as far as Islam, but there's a huge amount of diversity in
20 both religions. There is -- Islamic law can be interpreted one
21 way by some people, other ways by others.

22 Personal morality in Islam is conservative. Strict
23 dietary laws. Rules about no interest in financial transactions.
24 Heavy emphasis on hard work and industriousness, hospitality, and
25 respect for others.

1 Justice is an important issue in Islam. And there's an
2 obligation to oppose injustice, which is consistent with Pete
3 Seda's approach to the war in Chechnya and all of his other --
4 other works.

5 There are what are known as the five pillars of Islam.
6 The first is is the confession of faith. That there is only one
7 God and Mohammed is the prophet. Second is Salah, the
8 requirement for prayer. Five times a day. And that is something
9 that Pete Seda follows. He may be praying when we take breaks
10 from court during this trial.

11 The third pillar of Islam is Zakat or donations to the
12 poor. I'll talk about that in a little bit more detail.

13 Fourth, there's the requirement for fasting during the
14 holy month of Ramadan which, this year, is August 11th through
15 September 9th. Which means that many of the witnesses in the
16 case will be fasting during the day.

17 The fifth pillar is once in the life of a person who is
18 financially and physically able to do so, the person should make
19 a pilgrimage to Mecca.

20 There's some other terms that may come up in the trial:
21 Jihad. Jihad is -- and, again, this is just a short summary. We
22 will have experts talking about this. It's the Islamic doctrine
23 of defending the faith. The term means "struggle" and refers to
24 both the individual and collective struggle to uphold virtue and
25 prohibit vice.

1 The Qur'an has three kinds of giving of Islamic giving.
2 There's Zakat, one of the five pillars of Islam, which is the
3 religious charitable giving of a portion of one's disposable
4 income or assets. The Qur'an lies out -- lays out the perimeters
5 -- parameters and detail. It's supposed to be -- it's only
6 supposed to be used for humanitarian purposes and to assist the
7 poor and those in need.

8 There are special rules for it and all organizations
9 that gather and dispense Zakat funds are obligated to carry out
10 their activities to the letter of the law. Not only are they
11 responsible to the donors and the recipients, they are
12 responsible to God. It's an important part.

13 Zakat is another kind of Islamic charitable giving
14 mentioned in the Qur'an but it is not obligatory like Zakat. And
15 while it includes much of the humanitarian activities, there's
16 more latitude in dispensing Zakat activities. Lakh [phonetic
17 spelling] is another kind of giving. It's a perpetual Islamic
18 charitable donation.

19 And in addition to talking about Islam, I think you
20 need to know a little bit about Saudi Arabia. Saudi Arabia is
21 known as the cradle of Islam. It's the site of the two holiest
22 places, Mecca and Medina. The kingdom is closely allied with the
23 United States. Throughout the last many years, the countries
24 have joined together when their strategic interests have allied.
25 Witnesses will talk a lot about that.

1 Saudi Arabia and the United States worked together, and
2 to a great degree, both in funding and tactics to assist
3 mujahideen in the fight against the Russians in Afghanistan and
4 in other places throughout the world. Two close allies.

5 And the charitable organizations, such as al-Haramain,
6 are closely connected to the government of Saudi Arabia. That's
7 important. As I said, the royal family structure had -- they're
8 high royal family officials, Saudi officials. They serve on the
9 board and in other official capacities. They're almost
10 quasi-governmental organizations, the charities like al-Haramain.

11 The Saudi Ministry of Islamic Affairs was responsible
12 for overseeing the activities of Islamic charitable foundations.
13 And during this time, '99 and 2000, the Ministry did follow the
14 overall charitable activities, and their dispensing of aid to
15 Chechnya was specifically coordinated by one organization: The
16 Saudi Joint Relief Committee.

17 This organization was set up not just by Saudi Arabia,
18 but with the cooperation and the agreement of Russia. The
19 Russians and the Saudis joined together to create this committee
20 to assist refugees in Chechnya.

21 And the Saudi Joint Relief Committee, this
22 organization, would not have been allowed to participate in
23 transferring restricted Zakat funds to support nonhumanitarian
24 activities.

25 Chechnya is also an important part of this case. While

1 Pete Seda was living a good life in southern Oregon, there was
2 trouble halfway around the globe in the Russian Republic of
3 Chechnya. In the 1800s, the Chechens sought independence from
4 the tsars. This struggle continued and continued, even against
5 the Soviet regimes, you know, starting from 1917 till the end of
6 the Soviet Union.

7 With the fall of the Soviet Empire in 1990, the
8 Chechens thought, finally, finally we can be independent.
9 Kazakhstan, Uzbekistan, Tajikistan, all we're allowed to be
10 independent. But not Chechnya. The Russians simply would not
11 release their hold. A civil war developed in the '90s, and in
12 1995, it was resolved, it turns out, only temporarily with a
13 semi-autonomous state.

14 But war breaks out again, and the Russians fought back
15 with a vengeance. And I'm going to show you some pictures about
16 that. U.S. State Department reported that several thousand
17 refugees had been driven from their homes and were living in
18 desperate circumstances. Grozny, the Chechen capital, was
19 virtually leveled. For a time, the Russians had cut off
20 humanitarian aid. And Pete Seda, like people throughout the
21 world, was concerned about this. And it's important for you to
22 know that this concern, this state of mind, is driven by
23 mainstream media as much as anything else.

24 These are some of the stories that we -- you know,
25 you're going to see. Here we see the Russian bombardment

1 intensifies as its troops close in on Grozny. This is a story,
2 December 18th, 1999. In this story: We urgently need a
3 cease-fire otherwise there will be a bloodbath. Again, remember
4 the time of the case here.

5 And the El-Fiki donation, for example, was in early
6 2000. Pete Seda, starting at this time, before the El-Fiki
7 donation, is reading this and looking to raise money. Here in
8 this story, again, 200,000 people have already fled the fighting
9 in Chechnya.

10 Another story from CNN.com where there now are these
11 disturbing reports about widespread human rights abuses at
12 detention camps controlled by the Russian security forces.
13 That's what people are reading about. Not just on websites,
14 Islamic websites, but on CNN, Reuters.

15 Here's a photo essay on Time.com. You see the
16 devastation of Grozny. Here's a photo of some of the city, the
17 Russian soldiers setting up their table with tablecloths after
18 devastating the city.

19 Here's a horrifying photograph of a Russian policeman
20 standing guard over Chechnyans arrested for not carrying ID
21 documents. You can't look at this picture and not be concerned
22 about what's going to happen to these men.

23 A picture of the devastation in the city, saying
24 Russians weren't even going to bother to rebuild it. They were
25 just going to leave it there as a lesson.

1 And, of course, a picture -- here's a Chechnyan boy who
2 had to live on eating bread for two months. And here's a
3 photograph from Time.com called: "The refugees." The Russian in
4 the background. This poor Chechen widow whose husband died in
5 the fighting weeps as she carries her son from her home.
6 Thousands of civilians.

7 The plight of the Chechen people and the brutality of
8 the Russians brought condemnation not just from al-Haramain but
9 from United States and world leaders everywhere and the entire
10 Muslim community. Al-Haramain Saudi sent out appeals for aid for
11 the refugees. Many of the reports sent out through -- were sent
12 out through these e-mail lists or Listservs which are simply mass
13 e-mailings that Mr. Seda and others received. Many of the
14 reports in these ListServs are just similar to this.

15 Both the government and the defense are going to put on
16 expert testimony about Chechnya. I just wanted to talk a little
17 bit about these experts so that you know how to review their
18 testimony. The government will present Evan Kohlmann. He's a
19 young, engaging guy. Calls himself a terrorism expert. He's
20 never served in the military. He'll tell you that the major,
21 major focus of what he does is studying websites on the Internet
22 relating to terrorism. He's not fluent in Arabic. He speaks
23 only what he calls broken Arabic. That's Mr. Kohlmann's
24 background.

25 By contrast to Mr. Kohlmann, the defense is going to

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1 produce Colonel Patrick Lang. He was the former head of human
2 intelligence for the United States Department of Defense. He
3 briefed Presidents Reagan and Bush in the White House. He
4 started in the army as an officer in 1962, was a Green Beret, and
5 then he spent the entire rest of his long and distinguished
6 career in the army as an intelligence officer. As I said,
7 eventually being in charge of intelligence for the Department of
8 Defense except, however, for three years where he was professor
9 of Arabic at West Point. So his Arabic is good.

10 He's conducted operations against the KGB and foreign
11 guerilla movements, and Colonel Lang has won two awards from the
12 intelligence community. He's a man with serious knowledge about
13 this part of the world and the way things really work from
14 personal experience.

15 A second expert for the defense is David Long, former
16 director of contra-terrorism for the Department of State, also a
17 man with serious background in important things related to this
18 case.

19 These witnesses will talk about the Russian-Chechnya
20 conflict. They'll tell you about the agreement between the
21 Russian and Saudi governments, about the provision of aid that
22 ended up creating the committee that's the SJRC and al-Haramain's
23 role in it.

24 As I said, Pete Seda became very interested in aid to
25 the -- getting aid to the Chechnyans as he had been interested

1 before. It's important though to remember that his concern,
2 remember, started in '99 when this bloodbath started to be
3 feared. His concern predated the El-Fiki donation. He was
4 trying to raise money for the Chechnyans even before El-Fiki's
5 money showed up, and he did actually.

6 He also tried to get the Saudis, through Soliman
7 Al-But'he, to get involved in that. And you'll hear that Daveed
8 Gartenstein-Ross, the government's own witness, joined in the
9 efforts that Mr. Seda had to try to obtain a visa from the
10 Russian government so he could personally assist the refugees and
11 contacted other people.

12 Mr. Seda did receive a significant donation from the
13 Islamic Society of North America based in Toronto, about
14 3,600,000 -- sorry, \$36,000. This money -- I think it was
15 initially given as Canadian money so it may be like \$50,000, but
16 it's \$36,000.

17 As Pete Seda was trying to raise money, so was
18 al-Haramain Saudi trying to raise money. And in January 2000, a
19 wealthy Egyptian, Mahmoud El-Fiki, made a donation to al-Haramain
20 Saudi Arabia. Important distinction. He knew that al-Haramain
21 Saudi was working with the committee and he -- and we'll show you
22 the e-mails that show exactly what happened with El-Fiki's money.

23 He wrote to Saudi Arabia. He said: I understand
24 you're working with a committee. I want to give money for
25 Chechnya as Zakat. Al-Haramain wrote him back and said,

1 essentially: Thank you. Yes, the money will go to the poor, the
2 orphans, and the refugees. Dr. Long will tell you that that's
3 obligation when they say that, and anything else would be
4 illegal.

5 And it's important to know that the money that El-Fiki
6 sent was, again, to al-Haramain Saudi Arabia. In his e-mails to
7 them, in the correspondence, he says: I have a lot of my money
8 in London. Do you have an account in London? And they wrote
9 back and said: No, we don't have an account in London. But we
10 have an account in Ashland. Okay. Another western bank.

11 And so El-Fiki has no communication whatsoever with
12 anybody in Ashland. He is communicating with al-Haramain Saudi
13 Arabia. So he sends it to al-Haramain Saudi's account in the
14 U.S. He doesn't know -- there's no evidence to show that he even
15 knew there was an organization in the United States.

16 So now that there's 150 -- so Mr. Seda knows about the
17 150, knows about the 36 that he got from ISNA. He steps up his
18 efforts to get aid to Chechnya. He's just trying and trying to
19 get aid to Chechnya and he's just ultimately unsuccessful.

20 Now, then early in March, Soliman Al-But'he comes to
21 the United States. He came often though. And he often would
22 bring a budget. He'd bring money from Saudi Arabia to the U.S.
23 This time on a trip that he would normally bring the budget,
24 instead he came and he was taking the money, the El-Fiki money,
25 back to Saudi Arabia.

1 And before he left, the -- Mr. Seda and Mr. Al-But'he
2 wanted to make sure that the -- everything was all done on paper.
3 They wanted to make sure that there was a record, which may seem
4 a little different than a secret conspiracy, but they wanted to
5 make sure there was a record of the money that was going out. So
6 they drafted an agreement and they made their best effort to
7 determine how much money al-Haramain Ashland had received for the
8 Chechnyan refugees.

9 They made several different calculations. They
10 prepared one form that said \$188,000. Then they prepared another
11 form that said \$186,000. You'll see these acknowledgments of the
12 financial situation. They were all done in writing. And you
13 will hear that these documents, the 188, 186, were provided to
14 the government by Mr. Seda's lawyer.

15 So while -- because Mr. Al-But'he, as I said, was going
16 to bring the regular budget here, and didn't, they offset the
17 money. And it's important to recall that the agreement
18 represents \$186,000 in one, \$188,000 in the other. Al-But'he
19 only had \$151,000 that he left with. Okay? The rest of it was
20 money that was offset that had come into al-Haramain, but it was
21 just money they weren't going to get from the Saudis because the
22 Saudis were going to use it -- all in the document.

23 So Mr. Seda and Mr. Al-But'he went to the Bank of
24 America branch together in Ashland to purchase traveler's checks.
25 They didn't get cash which, as you know, is all but impossible to

1 trace. They got traveler's checks which are issued by American
2 Express. And evidently it's hard to trace them but they're
3 clearly traceable not like cash.

4 They dealt with the branch manager. You'll hear her,
5 Deb Ingram. They called that day and said: We're coming in.
6 They came in. They got all the checks they -- that were there at
7 the bank, 130,000. Ms. Ingram said: Well, if you want, you can
8 go to other branches and they didn't do that. They just came
9 back the next day and got \$21,000 in the cashier's checks that
10 you saw.

11 After his return to Saudi Arabia, Mr. Al-But'he
12 fulfilled his obligations and -- obligations to Mr. Seda,
13 Mr. El-Fiki, ISNA, and the other donors, and deposited \$187,000
14 with the al-Haramain office in Riyadh.

15 Now, when he left the United States, Mr. Al-But'he did
16 not declare the money. You've heard the government say that's
17 part of the case, that he did not declare the money and he's
18 supposed to declare the money. However, they have to prove that
19 he knew he had to declare the money.

20 And the important thing to know is I know -- and we'll
21 have evidence about this. Anybody who's traveled internationally
22 will know that every time you're coming into the United States,
23 the flight attendants distribute these cards that ask you what
24 you're going to declare. And you fill them out if you're
25 declaring money. And that card says, among other things, you

Opening Statement for the Defense

1 know, it says what kind of things did you buy? Did you buy
2 clothes or liquor or duty free or whatever? There's a long list
3 of things. And it also says, in text there: Are you bringing in
4 more than \$10,000? Okay.

5 Nobody gets a form like that when they leave. You
6 simply don't get it. And Mr. Al-But'he, you will hear, came into
7 the United States many, many times with traveler's checks, and
8 every single time he came in, he reported. We will urge to you
9 that there's no evidence that exists that Mr. Al-But'he or
10 certainly Mr. Seda knew that when you leave the country, you have
11 to declare more than \$10,000.

12 Mr. Seda's efforts to get aid to the refugees is
13 consistent with his work. You've heard Mr. Cardani even say that
14 in September and October, when the government alleges that this
15 conspiracy was happening, Mr. Seda was meeting with the FBI and
16 others, sometimes at the agent's request, speaking to them about
17 terrorism, expressing his horror about the events of
18 September 11th.

19 And he also spoke out in the community, Pete Seda did,
20 after 9/11. He wrote to al-Haramain officials in Saudi urging
21 them to take a strong stance against terrorism. And he -- as I
22 said, he spoke out in the community.

23 Here's a picture. We got it out of the newspaper so --
24 and it's black-and-white newsprint, but this is an event that he
25 had with a high school teacher, a man named Bill Gabriel who's

1 going to be here today who will talk about how after 9/11, he
2 felt it was important for his high school kids to learn about
3 Islam, to learn about the world, and he took them to hear Pete
4 Seda talk.

5 Now, I want to talk to you about the accountant. As
6 you know, this is not a terrorism case, this is an accountant
7 case and accounting is at the core of the case. Tom Wilcox has
8 the best possible qualifications. He -- Mr. Seda had businesses
9 in the past and he had accountants, but he wanted somebody that
10 knew about nonprofits. He also ended up with somebody who was an
11 IRS agent.

12 And the plan was to trust Tom Wilcox with his work. He
13 also knew it was a Muslim organization and the IRS' eyes would be
14 closely on him, even in the pre-9/11 era.

15 Tom Wilcox was hired at the end of '99, and he was
16 hired not just to do taxes -- and you'll see the engagement
17 letter that Mr. Wilcox wrote to Pete Seda which explains all the
18 things that Mr. Wilcox was going to do which went beyond the
19 typical accountant's obligations. He was not just to do the
20 taxes, but to analyze and review al-Haramain's accounting system
21 to ensure its accuracy and reliability. That was Tom Wilcox's
22 job.

23 Pete Seda told him he knew he was going to get audited
24 so he better do it right. As I said before, he talked to him
25 about delegation. And that Wilcox and the bookkeepers have to do

1 it because Pete Seda just doesn't look at it that carefully.

2 So Wilcox does this study. He charges them for it.
3 First thing he's supposed to do, remember, is study how they do
4 their accounting. He does the study. He sees there's a lot of
5 things wrong, but -- like not entering deposits. I'm not sure
6 how it works in a business that you don't enter your deposits but
7 they weren't entering their deposits. And Tom Wilcox saw that,
8 mentioned it, it really never got fixed. Wilcox ended up
9 entering the deposits a year and a half later.

10 But from the beginning in this accounting case, Tom
11 Wilcox got almost every accounting matter wrong. He made mistake
12 after mistake after mistake and Pete Seda followed his advice.
13 And I'm going to show you some of the examples because the
14 accounting is key here.

15 First is a timeline to -- which talks about FUTA. Now,
16 what FUTA is is Federal Unemployment Tax Act. What happens when
17 you apply to be a nonprofit corporation, you get a letter -- if
18 you're successful, you get a letter from the IRS and that says
19 essentially: Congratulations. You're exempt from federal income
20 taxes. And you also don't have to pay federal unemployment
21 taxes. It's right in the letter. And we'll show you the letter
22 -- I'm going to show Mr. Wilcox the letter, but I don't have it
23 here.

24 I just want to give you a timeline of the Federal
25 Unemployment Tax Act. Mr. Wilcox -- what he did and how Pete

1 Seda responded to his accounting work, I think while not
2 involving a lot of dollars, it does show you both the care that
3 Mr. Wilcox took with this and Pete Seda's response. And what
4 this is is a timeline of maybe 12 events that talk about what
5 happened.

6 Here, December 30th, Wilcox tells Pete Seda that one of
7 his specialties was nonprofits. This is something that's in the
8 letter. And so then they get the determination letter, okay, IRS
9 writes to al-Haramain, says: You're exempt from income tax and
10 you are not liable for federal unemployment tax.

11 Then January 23rd, not a month and a half later, Tom
12 Wilcox tells al-Haramain to pay \$56 for federal unemployment tax.
13 And what does Pete Seda do? He pays the tax. Because his
14 accountant tells him to pay it, writes out a check, pays the
15 check.

16 Then April 18th, IRS writes, again: You're exempt from
17 federal unemployment tax. We will send you a refund of the
18 amount that you mispaid us. And so al-Haramain faxes the letter
19 a week later, and right after that, they get a refund check of
20 \$56.

21 Then in October, not a few months later, Tom Wilcox
22 tells al-Haramain to pay the FUTA tax again. And what does Pete
23 Seda do? He pays \$69.49. And still when al-Haramain gets the
24 material, they fax the check back to Wilcox. He knows they got
25 overpaid.

1 And, again, January 26th, he prepares yet another
2 federal unemployment tax. This is the nonprofit expert. And
3 then they tell him again: We will send you a refund. And they
4 get the letter.

5 July 9th, yet again, Wilcox is telling them to pay
6 something which he has documents saying: You're exempt from
7 federal unemployment tax. Do not pay federal unemployment tax.
8 He keeps telling Mr. Seda to pay the tax. They send him another
9 letter about the overpayment which is faxed to Wilcox twice,
10 September 9th and then October 10th. And, again, in 2002, he
11 pays the FUTA.

12 So the IRS starts investigating al-Haramain after 9/11.
13 They're investigating and they get all sorts of documents. And
14 one of the things they see in the documents that they get is a
15 discrepancy about the value of the Springfield building, okay?
16 They obtain the escrow statement which is the sort of closing
17 statement from the title company, and what that says is the
18 building costs, say, \$381,000.

19 And then they look at the tax return and they look at
20 Wilcox's papers, and it looks like they put on the tax return
21 \$461,000. Actually, the tax return has two separate numbers on
22 it. At one point Wilcox puts 461 for the value of the house, of
23 the Springfield prayer house, another place he puts 465. But, in
24 any event, it doesn't match up with the escrow statement and so
25 the IRS is concerned about that.

1 So she goes to interview Tom Wilcox. And essentially:
2 What's up? You've got the prayer house which -- here's the
3 escrow statement. It says 381. And you're saying on the tax
4 return it was a lot more. This is the heart of the criminal case
5 here. And so what Tom Wilcox says is when he sees this error, he
6 says: It's not my fault. It's not my fault. He says:
7 Al-Haramain put the information into their computer and they just
8 gave me a piece of paper. All I did was put the numbers on the
9 tax return. Pete gave me the piece of paper.

10 Oh, I'm sorry. I want to show you these other errors
11 before we do that. The one percent error. Before I get into the
12 Springfield building schedule, this is another short example of
13 Mr. Wilcox's -- of his work. This is a simple one that you can
14 see. This is the form, the very form in this case, schedule A,
15 form 990. Here it says -- line 23. This number, line 25 says:
16 Enter one percent of line 23. This is the mistake that you or I
17 could make but Tom Wilcox should know that \$17,000 is ten percent
18 not one percent.

19 And I wanted to show you something about -- before we
20 get to the key line on the tax return for this case, which is the
21 line 57-a, the value of the building, I want to show you how Tom
22 Wilcox valued buildings in the previous return. This is a 1988
23 -- 1998 return. There's several documents here, yet just as
24 we're going to try to do, both sides, throughout the case, try to
25 make sure that it's as clear as we can.

1 And I'm going to show you three important documents.
2 Again, the main point in this case is that the government claims
3 the building was overvalued on the tax return and that it was
4 Pete Seda's fault. Okay? And what I want to show you is the Tom
5 Wilcox approach. This case is about the value of land and
6 buildings on the 2000 tax return, line 57-a. The government says
7 that the error is a crime committed by Pete Seda. This return
8 was prepared by Tom Wilcox and signed by Pete Seda. What I want
9 to show you is the value of buildings on the '98 return, the
10 first one that Tom Wilcox did.

11 This is a serious error on the value of the buildings.
12 This form was prepared by Tom Wilcox, signed by Pete Seda, and
13 the error was made by Tom Wilcox. No question. You can't blame
14 Pete Seda for this one just like you can't blame him for the
15 other one.

16 And so this is a summary of these documents. There's
17 two forms. Tom Wilcox prepared the -- remember Mr. Cardani
18 showed it to you, the application for tax-exempt status. It had
19 Pete Seda's signature on it and Tom Wilcox, preparer. That form
20 had the value of the building that al-Haramain owns at \$229,000
21 -- \$229,831. The tax return, called the form 1120 in that
22 period, had the value of the building at \$10,000. So this,
23 41 days later, has a completely different number, and I'll just
24 briefly show you the way that Wilcox got there.

25 Okay. This is the 990, the return in this case. You

1 can see the value -- this is the value of the buildings. It
2 says: 685. Of that, 481 or 485 is Springfield which is the key
3 line in our case.

4 This is the '98 tax return, okay? Okay. The
5 al-Haramain return. You can see it's signed by Wilcox. Prepared
6 by Wilcox.

7 So if you look at this return, it just shows the kind
8 of thinking and work that Wilcox uses in making these
9 preparations. And you see here, the value of the building is
10 \$10,000. But the really odd thing about this return is that if
11 you look at it, it's got \$3,000 for taxes. And if you look at
12 what the taxes are for, it's property tax. So we know that if
13 you pay \$3,000 in property tax, you've got to own a building
14 that's worth more -- or own something that's worth more than
15 \$10,000.

16 And indeed -- and, here, these are the two parts of the
17 return: Property tax, \$3,000, and yet, building, \$10,000. So
18 this should have been one clue to Mr. Wilcox that the return was
19 wrong. Even Ashland, they don't have 30 percent a year for
20 property taxes.

21 And so the important thing is when he prepared the '98
22 return on February 11th, Wilcox knew that they owned this
23 building. And that's -- that's what I'll show you here.

24 This is the 1023 that Mr. Cardani showed you. Remember
25 Pete Seda's signature? However, we note -- we don't think

1 Mr. Wilcox will deny that he prepared this. We think he will say
2 that he will -- that he did prepare it. But one of the documents
3 that we have in this file is his invoice that he submitted to
4 al-Haramain on January 3rd. Remember, it was filed on
5 December 31st, and he's billing al-Haramain for preparation of
6 form 1023.

7 So he clearly admits that he did it. And on that form,
8 at that point they were applying to be a church. And it asks:
9 Does the organization have an established place -- established
10 place of worship? And Mr. Wilcox writes: Al-Haramain Islamic
11 Foundation owns the prayer house. He writes in this form, filled
12 out 41 days before he does his taxes: \$229,831.

13 Again, \$229,831. He knows the difference. So what's
14 he going to say? What can we trust about what he says in the
15 other return?

16 The government -- we don't dispute that there are
17 inconsistent values about the building. But the important part
18 of the case is that, as I told you before, the government noticed
19 that the tax return has a different number than the books that
20 Wilcox had. Tax return has the building at 460, the government
21 says that what they're doing is burying the money to Chechnya and
22 pretending that the building costs more. They're trying to blame
23 al-Haramain for that.

24 And this is, in our view, the key document in this
25 case. I'm almost done with my argument. I want to talk to you

1 about this is the key document in the case.

2 So Colleen Anderson, the special IRS agent, comes to
3 Wilcox. She says: There's this mistake. What happened? Wilcox
4 blames Mr. Seda because this is the number that got into the
5 return. And what happens is -- let me talk to you for a minute
6 about entering information.

7 What happens in QuickBooks, and we have a really good
8 QuickBooks expert to explain this to you, but on one line on a
9 computer program, you enter a bunch of information. You will
10 enter whether it's a check. You will enter the date of the
11 check. You will enter the number of the check. You will enter
12 the name of the payee, the amount, and what the check is for.
13 Okay? That's how the program works. Relatively simple. Okay.

14 And so what this piece of paper seems to say is that
15 somebody entered that -- or what it does say is that somebody
16 entered that information and put this check, this 131,300, as
17 part of the Springfield building, okay?

18 So when Colleen Anderson went to Tom Wilcox, what he
19 said is -- he said: Al-Haramain coded the checks. Seda provided
20 the scheduling. Okay? This is what he tells her: Not my fault.
21 They coded the checks. They gave me the schedule.

22 She goes to see him again November 18th, 2003. Again,
23 this is important because he's trying to explain why the tax
24 return has a different number than the escrow statement, why
25 they're overvaluing it. And he says: They just gave me this.

1 It's Pete's fault. He put the numbers in there and then he gave
2 me this piece of paper.

3 Colleen -- in the case, eventually Ms. Anderson says,
4 Pete told her: Seda provided a financial summary to an
5 accountant detailing how the building was purchased. And she
6 tells the grand jurors when they're indicting the case: This
7 accounting was false. She says to the grand jury: This -- this
8 was the form that Seda provided to his accountant. Seda said the
9 131 went to the Springfield building schedule -- went to the
10 Springfield building. Seda told Wilcox that and that's why
11 Seda's committed a crime, because he lied and said the 131 was
12 for Springfield.

13 She says to the grand jurors: This was a form
14 generated by al-Haramain. They had their own accounting program
15 within the prayer house and they would print these out and they
16 would give them to Wilcox. So, of course, under that scenario,
17 it's not Wilcox's fault that he puts 461 for the value of the
18 Springfield building. They told him to do so.

19 So Pete Seda gets indicted and the defense team is
20 formed. And we hire a computer guy, he's both a computer whiz
21 and a CPA. And this guy, Jeff Cone, he knows a lot about
22 QuickBooks. He knows how to get into it and find data in there
23 that is maybe not as obvious as it would be to anybody else.

24 Again, what Jeff Cone determines after looking at
25 QuickBooks is that Pete Seda coded all these checks. I'm sorry.

1 I'm sorry. This is one of my April-August mistakes. He
2 determines that Tom Wilcox coded the checks. Okay? Wilcox had
3 said that Pete gave me this. It wasn't my fault. But really we
4 find out that Tom Wilcox himself puts these checks in there and
5 Tom Wilcox prints out this statement himself.

6 Pete Seda doesn't -- remember, as I said, Wilcox said:
7 Al-Haramain coded the checks, Seda provided the schedule.
8 Al-Haramain coded the checks, Seda provided the schedule. Well,
9 really we could have -- you could have just figured that out. We
10 didn't really need the super-duper expert for the printing it out
11 because we see it was printed out, and this is going to come up
12 in other aspects of this case. We see it was printed out on
13 9-24-2001, and we know through his billing records that Tom
14 Wilcox already had the file and was doing the work. So it was
15 obvious just from looking at this piece of paper really that Tom
16 Wilcox printed this document.

17 So what happens after this? So we go talk to Wilcox.
18 Mr. Wax and I, Jim Strupp, our investigator, go talk to
19 Mr. Wilcox and Colleen Anderson is with us and we ask him a whole
20 bunch of questions about the case. This is much, much later,
21 May 22nd, 2009.

22 And by then, he is starting to perhaps see -- maybe he
23 saw the 9-24-01, but he's starting to tell a different story:
24 Al-Haramain coded the checks. I printed the schedule. So Wilcox
25 is starting to tell a different story.

1 Then after this, after May 29th, 2009, Colleen Anderson
2 sends Wilcox some documents, and what she sends them are two
3 documents. One is called the audit trail. And that proves to
4 Wilcox that he -- he coded the checks, it shows him that he's
5 wrong, and it shows him that he printed the schedule. So she
6 sends him these documents which prove that and she sends him one
7 other piece of paper which is important. I'll show it to you
8 during the trial. She sends him his time sheets for when he was
9 working in September of 2001.

10 So what he then says is -- he admits, as he has to,
11 because he sees the documents: I coded the checks. I printed
12 the schedule.

13 And that is also something that she -- that he says to
14 her is: You know, I'm looking at these records and, you know,
15 Pete Seda told me to do it and he told me to do it on
16 September 25th, 2001. He says something -- remember, he's first
17 talked to in June 2003. Now he's saying, for the very first
18 time, that Pete Seda told me to do it. We had this -- we had
19 this meeting on September 25th, 2001, and that's when it all went
20 down. Well, we don't think there was a meeting on
21 September 25th, 2001.

22 We will show you documents where whenever Mr. Wilcox
23 bills his client, he lists what it's for. All good professionals
24 are supposed to do that. And certainly you're going to note to
25 your client when you have a meeting. And we'll show you paper

1 after paper after paper when he bills for meetings.

2 September 25th, 2001, says nothing about a meeting. He's working
3 on the taxes.

4 Criminal case. Some other -- a few more things about
5 the line one and line 22. In order for the -- a tax mistake, if
6 you will, an error to be a crime, as Mr. Cardani explained to
7 you, you need to prove not just that there's a mistake on the
8 taxes. I think we all would agree that it shouldn't -- couldn't
9 be a crime if there's just a mistake on your tax return, okay. A
10 lot of us would be in big trouble if any error on your tax return
11 was a crime.

12 What they have to show is, in this case, they've
13 alleged line one was contributions that came in was understated;
14 line 22 grants and allocations, money going out, understated;
15 and, again, the value of the buildings overstated.

16 Also, in this case, their errors are all related to the
17 El-Fiki donation. That's the only real issue here. We're not
18 going to be combing through the tax return for any sort of
19 errors. It all has to be concerning that. And the judge is
20 going to tell you that -- talk about material. We have no real
21 quarrel about what Mr. Cardani said. It's a -- material is a
22 "kind of" important. Willful is a "kind of." Intentional. So
23 they've got to prove an important error that was intentional with
24 line one and line 22.

25 Now, one thing that's important about line one and line

1 22, in our view, is they're not understated. This money was
2 given to al-Haramain Saudi Arabia. El-Fiki had no idea there was
3 even such an organization as al-Haramain actually. He sent it to
4 al-Haramain Saudi's account. That's the term that was used.

5 And we will have a man testifying, a man named Marcus
6 Owens. He was the head of the Internal Revenue Service
7 Department of Tax-Exempt Organizations for years. He's now a
8 lawyer in Washington, D.C. He was the man who was in charge of
9 all of that.

10 He will tell you that when money is given in this way
11 to one organization, also earmarked for a certain purpose, that
12 it is not income -- not income, not a contribution to al-Haramain
13 U.S.A. So it shouldn't even be on the return. Same thing with
14 line 22, money going out. He didn't know it was al-Haramain
15 U.S.A.

16 The other thing he's going to tell you is about line
17 57-a. First of all, we admit it's wrong. There's no question
18 that it's wrong. There's an error on the return. The escrow
19 statement that you will see says 381. The tax return says 461 or
20 4665. Both -- there's an error. In our view, apart from whether
21 it's willful -- and really much of the case, all the Chechnya
22 photos and all this go to whether the error was willful. And so
23 I need not speak about that in any more detail. That's what was
24 going on in Mr. Seda's mind was he trying to do this conspiracy,
25 trying to do this false tax return.

1 But what Marcus Owens will also tell you is that it's
2 not material. The government does not care whether the value of
3 a building that is listed on a nonprofit corporation tax return
4 is \$80,000 off or not. It's simply not at all material to their
5 tax status.

6 All the government -- there's no duty to report
7 anything other than it went for aid. There's no indication, no
8 rule, that you have to say anything about where it went even if
9 it went where they said it went. In our view, it did not. It
10 went for Chechnyan refugees. But all you need to say is it went
11 for aid. There's no need to be specific.

12 So when all is said and done, the tax return was not --
13 lines one and 22 were correct. Line 57-a was neither a material
14 error nor a willful error. There was no intent to not file a
15 cash transaction reporting form. Tom Wilcox made the error,
16 started this whole thing by blaming Pete Seda, saying it was all
17 his fault. It was not.

18 We believe by the time we're done with this case the
19 evidence will show that Pete Seda is not a criminal. He's a good
20 man. He's a good American. And we'll ask you to find him not
21 guilty. Thank you.

22 THE COURT: Thank you, Mr. Matasar.

23 Members of the jury, you're excused until 9:00 tomorrow
24 morning. Thank you.

25 (Jury exits courtroom.)

Opening Statement for the Defense

1 THE COURT: A couple things. Mr. Cardani, with regard
2 to a letter you gave me about the witness, I think the matter
3 should be disclosed to the defense. I'm not saying it's usable,
4 but it should be disclosed.

5 MR. CARDANI: Yes, your Honor.

6 THE COURT: I'm referring to Exhibit BOA-6. That's the
7 check with "PowerMac" written on it. Was that a check alleged --
8 I can look back in the briefs, but was it a check having to do
9 with unemployment taxes?

10 MR. GORDER: Your Honor, it's a check to
11 Mr. Gartenstein-Ross who will testify it was salary. But it says
12 on it it's for the purchase of a computer.

13 THE COURT: All right.

14 MR. GORDER: So it was used to disguise itself.

15 THE COURT: I think I said at the time the door could
16 be opened in a number of ways. Everyone should know, I'm
17 considering whether the opening statement about federal
18 unemployment tax opened the door. And so I am not deciding that
19 right now.

20 What is the purpose of the computers and the printer in
21 the back of the courtroom? Is that a printer? What is it?

22 MR. WAX: Yes, it is, Your Honor. In case we need to
23 have something that is not currently identifiable as an exhibit,
24 available to show a witness.

25 THE COURT: Well, we haven't even had any exhibits, and

1 people have been busy back there. I find it distracting.

2 MR. WAX: I'm sorry, Your Honor, we will --

3 THE COURT: Thank you. Let's eliminate it. Thank you.

4 I'll see you in the morning.

5 (The proceedings recessed at 5:00 p.m.)

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C E R T I F I C A T E

STATE OF OREGON)
)
County of Lane)

I, JAN R. DUIVEN, Certified Shorthand Reporter for the State of Oregon, in and for the County of Lane, do hereby certify that the foregoing pages comprise a true and correct **TRANSCRIPT EXCERPT**, to the best of my ability, of the proceedings held in the above-entitled matter on MONDAY, AUGUST 30, 2010.

DATED AT EUGENE, OREGON, THIS 3RD DAY OF SEPTEMBER, 2010.

JAN R. DUIVEN, CSR, FCRR
OFFICIAL COURT REPORTER

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